

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI  
ABERDEEN DIVISION**

**MARCUS FOSTER  
REBECCA FOSTER**

**PLAINTIFF**

V.

**CIVIL ACTION NO. 1:19-CV-201-DMB-DAS**

**RELIANCE FIRST CAPITAL, LLC,  
DOVENMUEHLE MORTGAGE INC.,  
MERRILL LYNCH, PIERCE, FENNER & SMITH, INC.,  
US BANK, NA, GINNIE MAE, MORTGAGE ELECTRONIC  
REGISTRATION SYSTEM.**

**DEFENDANT(S)**

**ORDER STAYING DISCOVERY**

There are two motions pending to stay discovery [Dkt 22, 25] pending rulings on the motions to dismiss for failure to state a claim. A stay of discovery pending such a motion is not mandatory, but addressed to the discretion of the court. The fact that the plaintiffs have not responded to the motion for stays allows the court to take the motion as confessed. No party has opposed the motions for a stay. Because Rule 12(b)(6) motions are decided on the pleadings, *McAlpin v. Am. Hardwoods Indus., LLC*, 2016 WL 1084139, at \*1 (N.D. Miss. Mar. 17, 2016), the court, not infrequently, decides these motions before allowing discovery to proceed. The court finds that it is appropriate to stay this matter until all pending motions to dismiss [Dkts. 11, 16, 18].

**IT IS ORDERED** that all discovery in this action shall be stayed pending ruling on the motions to dismiss [Dkt. 11, 16 and 18]. If the motions, or any of them, are not granted in full,

the parties are directed to contact the chambers of the magistrate judge to request the setting of a Case management order within fourteen days of the ruling on the motions.

**SO ORDERED** this the 3rd day of August, 2020.

/s/ David A. Sanders  
**U.S. MAGISTRATE JUDGE**